

**TREATMENT OF EMPLOYEE LEASING COMPANIES, 401(k) PLANS, AND “CAFETERIA PLANS”  
UNDER MAINE EMPLOYMENT SECURITY LAW**

**Employee Leasing Companies**

- ◆ Under Maine Employment Security Law, an employee leasing company is responsible for making unemployment contributions payments to the State of Maine based on the taxable wages paid to workers leased to a client company. An employee leasing company is also responsible for paying interest and penalties that may be assessed to their account for a particular client company. But, a client company that leases workers may also be held responsible for any tax, interest, or penalties left unpaid by the leasing company on the leased workers.
- ◆ A leasing company's tax rate is used to compute the payment of taxes due on the taxable wages of leased workers. Taxes are assessed on the first \$12,000 of a worker's gross wages in a calendar year. If a client company joins or leaves a leasing arrangement with an employee leasing company during a calendar year, wages paid by the client company and the employee leasing company may be combined to meet this requirement.
- ◆ Leasing companies are responsible for all paperwork and for representing their client companies in matters that involve leased workers unemployment insurance claims.
- ◆ An employee leasing company that violates the law is subject to penalties.
- ◆ Temporary employment agencies are not employers treated as employee leasing companies under Maine Employment Security Law.

**401(k) (Deferred Compensation) Plans**

- ◆ Deductions from wages paid to workers for payments made to an IRS qualified 401(k) plan are reportable as wages for unemployment insurance purposes. Employer contributions made to a 401(k) plan are exempt from both State Unemployment Tax Law (SUTA) and Federal Unemployment Tax Law (FUTA).

**IRS Section 125 (Cafeteria) Plans**

- ◆ If the deductions from employee earnings and the payments made by an employer into a qualified cafeteria plan are taxable under the Federal Unemployment Tax Law (FUTA), they are also taxable under State Employment Tax Law (SUTA).

**QUESTIONS ABOUT THIS NOTICE?**

Contact a Status Representative at (207) 621-5120, select Option 3;  
TTY Users Call Maine Relay 711;  
Fax: (207) 287-3733; E-mail: [division.uccollections@Maine.gov](mailto:division.uccollections@Maine.gov)